

Jennifer C. DeMarco  
Robert Johnson  
CLIFFORD CHANCE US LLP  
31 West 52<sup>nd</sup> Street  
New York, NY 10019  
Telephone: (212) 878-8000  
Facsimile: (212) 878-8375

*Attorneys for Sumitomo Mitsui  
Trust Bank, Limited*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

JPA NO. 111 CO., LTD., and  
JPA NO. 49 CO., LTD.  
  
Debtors.

Chapter 11

Case No. 21-12075 (DSJ)  
(Jointly Administered)

**STATEMENT OF SUMITOMO MITSUI TRUST BANK, LIMITED, REGARDING  
THE BIDDING PROCEDURES MOTION AND THE DISMISSAL MOTION**

Sumitomo Mitsui Trust Bank, Limited, acting on behalf of itself and acting in its capacity as trustee for Trust No. 00011436 for the benefit of the beneficiaries of the trust (collectively, “SMTB”), each in its capacity as an MSN 173 Senior Lender (defined below) and a party in interest herein, files this statement regarding:

- the Debtors’ *Application for Entry of Orders: (I)(A) Approving Bidding Procedures Relating to the Sale of Substantially All of the Debtors’ Assets; (B) Establishing Stalking Horse Bidders and Bid Protections; (C) Approving Procedures for the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; (D) Authorizing Enforcement Actions; (E) Scheduling an Auction and a Sale Hearing; and (F) Approving the Form and Manner of Notice Thereof and (II)(A) Approving the Sale of the Purchased Assets Free and Clear of All Liens, Claims, Interests and Encumbrances; and (B) Granting Related Relief* [ECF No. 21] (the “Bidding Procedures Motion”); and
- the *Motion of FitzWalter Capital Partners (Financial Trading) Limited to Dismiss or Abstain from Hearing These Chapter 11 Cases* [ECF No. 22] (the “Dismissal Motion”).

SMTB respectfully states as follows.

### **BACKGROUND**

1. Debtor JPA No. 49 Co., Ltd. (“MSN 173 Owner”) is a party to that certain Facility Agreement dated December 22, 2017 (the “MSN 173 Senior Facility Agreement”) by and among MSN 173 Owner, as Borrower, Crédit Agricole Corporate and Investment Bank, as Senior Agent and Security Agent (in such capacities, the “MSN 173 Agent”), and certain financial institutions, as Senior Lenders (the “MSN 173 Senior Lenders” and, together with the MSN 173 Agent, the “MSN 173 Senior Secured Parties”). SMTB is one of the MSN 173 Senior Lenders.

2. The obligations owing to the MSN 173 Senior Secured Parties under the MSN 173 Senior Facility Agreement (the “MSN 173 Senior Secured Obligations”) are secured by liens and security interests in and to substantially all of MSN 173 Owner’s assets (the “MSN 173 Collateral”) including, without limitation, one (1) Airbus A350 aircraft bearing manufacturer’s serial number 173 (“MSN 173”). According to the Debtors’ first-day declaration, the outstanding balance owing under the MSN 173 Senior Facility Agreement as of October 4, 2021 was approximately \$89,811,133. *See Declaration of Teiji Ishikawa Pursuant to Local Bankruptcy Rule 1007-2 and in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings* [ECF No. 3], ¶ 21.

3. On December 17, 2021, MSN 173 Owner and its affiliate, JPA No. 111 Co., Ltd. (the “Debtors”) commenced these chapter 11 cases (the “Chapter 11 Cases”).

4. On December 31, 2021, the Debtors filed the Bidding Procedures Motion. As set forth in the motion, Capitol Reef LLC and Isle Royale LLC (collectively, the “Stalking Horse Bidders”) have entered into a binding term sheet (the “Stalking Horse Term Sheet”) pursuant to which the Stalking Horse Bidders have offered to purchase (i) MSN 173, (ii) another Airbus

A350 aircraft owned by the Debtors bearing manufacturer's serial number 067 ("MSN 067" and, together with MSN 173, the "Aircraft"), and (iii) certain related assets in exchange for a "Base Purchase Price" equal to the outstanding senior and junior obligations under the respective loan agreements in relation to the Aircraft plus a cash payment of \$5 million (the "Stalking Horse Bid"). According to the motion, the Debtors estimate that the Base Purchase Price will be approximately \$207,741,763.53 plus additional interest, fees and other amounts incurred through the closing date, and at closing the Debtors propose to use the sale proceeds to pay the MSN 173 Senior Secured Obligations in full. *See* Bidding Procedures Motion, ¶ 20 ("The Facility Repayment funds will be used to pay off the entirety of the Debt Facilities as of the closing of the proposed sale.").

5. On January 2, 2022, FitzWalter Capital Partners (Financial Trading) Limited ("FWCP") filed the Dismissal Motion.<sup>1</sup> By that motion, FWCP seeks dismissal of the Chapter 11 Cases pursuant to sections 109 and 1112 of the Bankruptcy Code or, alternatively, abstention pursuant to section 305 of the Bankruptcy Code.

### **STATEMENT**

6. SMTB has no objection to the proposed sale of MSN 173 and the other MSN 173 Collateral, provided that the MSN 173 Senior Secured Obligations will be paid in full at closing as contemplated by the Bidding Procedures Motion.

7. The motion provides that the Base Purchase Price payable by the proposed Stalking Horse Bidders will be sufficient—and will be used at closing—to pay the MSN 173 Senior Secured Obligations in full. Given the proposed repayment of the MSN 173 Senior

---

<sup>1</sup> SMTB understands that FWCP is one of the MSN 173 Senior Lenders and has succeeded Crédit Agricole Corporate and Investment Bank as the MSN 173 Agent.

Secured Obligations, SMTB has no objection to the Bidding Procedures Motion and is supportive of allowing the Debtors to proceed with a sale process that will maximize the value of the Aircraft for the benefit of all parties in interest, including the MSN 173 Senior Secured Parties. *See In re Integrated Res., Inc.*, 135 B.R. 746, 750 (Bankr. S.D.N.Y. 1992) (“When a debtor desires to sell an asset, its main responsibility, and the primary concern of the bankruptcy court, is the maximization of the value of the asset sold.”), *aff’d sub nom., Off’l Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650 (S.D.N.Y. 1997).

8. In light of the proposed payment in full of the MSN 173 Senior Secured Obligations in connection with the sale process contemplated by Bidding Procedures Motion, SMTB does not believe that dismissal of the Chapter 11 Cases at this time is warranted. It would appear from the Bidding Procedures Motion that the Debtors have made substantial progress in the proposed sale process, agreeing to terms of a proposed Stalking Horse Bid that appears sufficient to pay off the MSN 173 Senior Secured Obligations on or before February 28, 2022. In the event the Chapter 11 Cases were dismissed and a foreclosure process for the MSN 173 Collateral were to proceed, SMTB is not in a position to confirm that such a process would maximize the value of the MSN 173 Collateral or result in a purchase offer sufficient to repay the MSN Senior Secured Obligations in full as currently is contemplated by the Bidding Procedures Motion. Accordingly, SMTB does not believe that dismissal of the Chapter 11 Cases at this juncture, in advance of the Debtors’ proposed sale process, would be warranted.

9. For the avoidance of doubt, SMTB reserves all of its rights in connection with the sale process contemplated by the Bidding Procedures Motion, including to the extent the Debtors

ultimately seek approval of a sale that would not pay the MSN 173 Senior Secured Obligations in full at closing.

Dated: January 13, 2022  
New York, New York

**CLIFFORD CHANCE US LLP**

By: /s/ Jennifer C. DeMarco  
Jennifer C. DeMarco  
Robert Johnson  
31 West 52<sup>nd</sup> Street  
New York, NY 10019  
Telephone: (212) 878-8000  
Facsimile: (212) 878-8375

*Attorneys for Sumitomo Mitsui  
Trust Bank, Limited*